IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 3887 of 2006(A)

ST.1109/2005 of THE JUDICIAL FIRST CLASS MAGISTRATE COURT IV, KOCHI

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REVN. PETITIONER: COMPLAINANT

P.P.FRANCIS, S/O. PAPPU,
PYNADATH HOUSE, ANGAMALY, ERNAKULAM DISTRICT.

BY ADV. SRI.MATHEW PAUL

RESPONDENT: ACCUSED

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

Crl. R.P. No. 3887 of 2006

Dated this the 4th day of December, 2006

ORDER

The complainant in ST 1109 of 2005 on the file of the court of the Judicial Magistrate of First Class IV, Kochi, is the petitioner herein. He challenges the judgment dated 18th September, 2006 by which the complaint was dismissed under Section 204(4) of the Code of Criminal Procedure Code.

2. The accused was absconding. Non-bailable warrant was issued against the accused. The petitioner failed to pay the necessary postage for issuing warrant by registered post. Sufficient opportunity was afforded to the petitioner but he did not comply with the order passed by the court. The complainant was absent on 18.9.2006. The court had no other option but to dismiss the complaint under Section 204(4) of Criminal Procedure Code. A report was called for from the learned Magistrate. A reading of the report would indicate that the petitioner was not only not vigilant in prosecuting the matter but did not obey the order passed by the court. The statements made in Memorandum of Crl.R.P. do not represent

the correct state of affairs. The report indicates that the petitioner was negligent in prosecuting the matter properly.

3. However, taking a lenient view in the matter, I am inclined to give one more opportunity to the petitioner to comply with the order passed by the court and to pay necessary postage and do all that is necessary to issue the non-bailable warrant, on condition that the petitioner shall pay Rs.1,000/- as cost to the Kerala High Court Legal Services Committee within a period of one week. If the cost of Rs.1,000/- is not paid within one week, the Crl.R.P. would stand dismissed. On such payment, the judgment dated 18.9.2006, shall stand set aside and in which event, the petitioner shall appear before the trial court on 18.12.2006 and pay the necessary postage and comply with all other requirements on or before 20.12.2006.

Crl.R.P. is disposed of as above.

K.T.SANKARAN,
JUDGE

csl